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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,522	06/26/2003	Matti Jokimies	200-008830-US (C01)	5739

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PERMAN & GREEN
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EXAMINER	
DANIEL JR, WILLIE J	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/606,522	JOKIMIES ET AL.	
	Examiner	Art Unit	
	Willie J. Daniel, Jr.	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 03 March 2006. **Claims 22-27** are now pending in the present application. This office action is made **Final**.

Response to Amendment

2. In response to applicant's remarks, the finality of the rejection of the last office action mailed on 05 October 2005 is withdrawn, which is hereby replaced by this office action. Also, the *Terminal Disclaimer* filed by applicant has been reviewed and is accepted which eliminates the necessity for repeating the double patent rejection applied in the last office action.

Terminal Disclaimer

3. The terminal disclaimer filed on 03 March 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of prior patent **US 6,611,674 B1** has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 23 and **25** are rejected under 35 U.S.C. 102(e) as being anticipated by **Mangold et al.** (hereinafter Mangold) (**US 5,926,232**).

Regarding **claim 22**, Mangold discloses a portable radio communication apparatus which reads on the claimed "mobile terminal" comprising an apparatus for controlling which reads on the claimed "control means" the encoding of a digital video signal, said digital video signal being encoded by a video encoder (e.g., combination of source encoder 3 and channel encoder 4) (see Fig. 1) and transmitted as a radio frequency communication signal by a second radio communication device to said mobile terminal, said radio frequency communication signal being received at said mobile terminal (see abstract; col. 1, lines 52-67; col. 3, lines 6-21; Fig. 1), said control means comprising:

means for monitoring (e.g., channel decoder 7) for monitoring at least one parameter (e.g., a signal quality parameter) indicative of a property of the radio communication signal received at the mobile terminal (e.g., portable radio communication apparatus) (see col. 3, lines 43-45; Fig. 1); and

means for forming (e.g., combination of multiplexer 12, telecommunications network 1, demultiplexer 13, and processor 14) a feedback signal responsive to said at least one monitored parameter (e.g., the signal quality parameter) for controlling at least one encoding (output) parameter of the video encoder (combination of source encoder 3 and channel encoder 4) (see abstract; col. 1, line 34 - col. 2, line 9; col. 3, lines 43-62; Fig. 1), where the return channel provides signal feedback to the first party for optimizing of signals (see col. 3, lines 63-64; Fig. 3).

Regarding **claim 23**, Mangold discloses a mobile terminal according to claim 22, wherein the control means comprises means for measuring a signal quality of the radio frequency communication received at the mobile terminal as a parameter indicative of a property of the radio frequency communication signal (see abstract; col. 1, line 34 - col. 2, line 9; col. 3, lines 43-62; Fig. 1).

Regarding **claim 25**, Mangold discloses a mobile terminal (e.g., portable radio communication apparatus) comprising a control means (e.g., apparatus for controlling Fig. 1) for controlling the encoding of a digital video signal, said digital video signal being encoded by a video encoder (e.g., combination of source encoder 3 and channel encoder 4) and transmitted as a radio frequency communication signal by said mobile terminal, said radio frequency communication signal being received by a second radio communication device (see abstract; col. 1, lines 52-67; col. 3, lines 6-21; Fig. 1), said control means (apparatus for controlling) comprising:

means for monitoring (e.g., channel decoder 7) at least one parameter (e.g., a signal quality parameter) indicative of a property of the radio communication signal transmitted from the mobile terminal (see col. 3, lines 43-45); and

means for forming (e.g., combination of multiplexer 12, telecommunications network 1, demultiplexer 13, and processor 14) a feedback signal responsive to said at least one monitored parameter (e.g., a signal quality parameter) indicative of a property for controlling at least one encoding (output) parameter of the video encoder (e.g., combination of source encoder 3 and channel encoder 4) (see abstract; col. 1, line 34 - col. 2, line 9; col. 3, lines 43-62; Fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 24, 26, and **27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mangold et al**. (hereinafter Mangold) (**US 5,926,232**) in view of **well-known prior art (MPEP 2144.03)**.

Regarding **claims 24, 26**, and **27**, and **as applied to claims 22** and **25 above**, Mangold clearly discloses the claimed invention except that the monitored parameter can also be the received signal strength, the transmission power, or the received power control command.

Nonetheless, the Examiner takes Official Notice that it is notoriously well known in the art to monitor, among other parameters, the transmission power, the received power control command, and the received signal strength of a radio

communication signal for purposes of, for example, error correction, quality control, power control, and interference prevention.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Mangold with notoriously well known teachings in the art in order to include, as part of the parameters to be monitored, the transmission power, the received power control command, and the received signal strength of the communication signal for the purposes of error correction, quality control, power control, and interference prevention.

Response to Arguments

6. Applicant's arguments filed 03 March 2006 and 08 June 2005 have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the above claims and comments in this section).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., signal itself rather than a *data* signal **decoded** from the radio frequency communication signal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claims 23 and 25, applicant's argument (08 June 2005) on pg. 8, 5th paragraph, relies on feature(s) not recited in the claims.

8. Regarding claims 23, applicant's argument (08 June 2005) on pg. 6, 3rd paragraph, "...fails to disclose or suggest means for monitoring at least one parameter indicative of a property of a radio frequency communication signal received at a mobile terminal...", the Examiner respectfully disagrees. Mangold discloses means for monitoring (e.g., channel decoder 7) at least one parameter (e.g., a signal quality parameter) indicative of a property of a radio frequency communication signal received at a mobile terminal (see col. 3, lines 43-52; col. 4, line 63-66; Figs. 1-4),

where a parameter of the transmitted signals are generated to describe the transmission quality of the signal (i.e., channel or frequency).

9. Regarding claim 25, the claim is rejected for the same reasons as addressed above.

10. Regarding claims 24, 26, and 27, the applicant did not traverse the Examiner's assertion of official notice stated in the action mailed 08 December 2004. As a result, the Examiner's statement is hereby taken to be well-known admitted prior art or common knowledge because the applicant failed to traverse the Examiner's assertion of official notice. Therefore, the applicant must agree with the Examiner's assertion of official notice.

11. Regarding **claims 25-26**, the Examiner requests applicant to review the following:.

a. Claim 25 recites the limitation "...said radio frequency communication signal being received by a **second radio communication device**, said control means comprising: a means for monitoring.....means for forming..." in lines 1-14 of the claim.

b. Claim 26 recites the limitation "...mobile terminal comprises means for measuring a transmission power..." in lines 1-6 of the claim.

Regarding **Claims 25-26**, the claims include a limitation(s) that is not clear as supported by the specification as originally filed. In present form, the claim language reads as though mobile terminal (A) is monitoring and measuring the signal (i.e., up-link signal) transmitted from the mobile terminal (A). The applicant is advised to review the cited subject matter of the specification (see pg. 11, line 21 - pg. 12, line

16), which basically states that the other end device such as a base station or mobile station (B) monitors and measures the up-link signal transmitted from mobile station (A) and then the other end device transmits or feeds back the parameter or command to mobile terminal (A). The Examiner respectfully requests the applicant to clarify the claim language or provide page(s), line(s), and figure(s) of the instant application that supports the limitation of the claim(s), and/or any supportive comment(s) to help clarify and resolve this issue(s).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marsha D Banks-Harold

WJD,JR
17 March 2006

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